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REPORT TO THE ECONOMIC AND SOCIAL COUNCIL ON THE FIFTY-FOURTH SESSION OF THE COMMISSION

Draft report of the Commission

Rapporteur: Mr. Roman Kuzniar

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1998/61. Situation of human rights in the Democratic Republic of the Congo

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable human rights instruments,

Mindful that the Democratic Republic of the Congo is a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the African Charter on Human and Peoples' Rights, as well as to the International Convention on the Elimination of All Forms of Racial Discrimination,

Recalling previous resolutions of the General Assembly and the Commission on Human Rights on the subject, most recently Commission resolution 1997/58 of 15 April 1997,

Mindful that the new Government of the Democratic Republic of the Congo has inherited a chaotic situation with the adverse effects of a deteriorating economy, a very high inflation rate and a low investment in health, education and housing after decades of dictatorship,

Conscious that the massive presence of Rwandese refugees in the eastern part of the Democratic Republic of the Congo had created major economic, social and political problems,

1. Welcomes:

(a) The report of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo (E/CN.4/1998/58);

(b) The expressed commitment of the Government of the Democratic Republic of the Congo to a process of democratization, leading, through the creation of democratic institutions and the holding of elections, to the creation of a State based on the rule of law and respect for human rights, including representative and accountable government, reflecting the aspirations of the people of the Democratic Republic of the Congo;

(c) The establishment by the Government of the Democratic Republic of the Congo of the Constitutional Commission, inaugurated on 5 November 1997,

and looks forward to the presentation of a new constitution for which the Government of the Democratic Republic of the Congo has set out a detailed timetable;

(d) The expressed commitment by the Government of the Democratic Republic of the Congo to reform and restore the efficacy of the judicial system;

(e) The effort undertaken by the new Government to subordinate the armed forces to the effective rule of law;

(f) The convening of a recent interministerial seminar, attended by non-governmental organizations, on the place of human rights in the National Reconstruction Strategy and its conclusions on strengthening cooperation between the Government and non-governmental organizations;

(g) The Government's willingness to include human rights education in the primary and secondary school curricula;

2. Expresses its concern:

(a) At the human rights situation, particularly in the east of the country where acts of violence continue;

(b) At the continuing violations of human rights and fundamental freedoms, in particular:

(i) At the occurrence of the arbitrary arrest and detention without trial of civilians, including journalists and opposition politicians and human rights defenders;

(ii) At the trial of civilians and the use of the death penalty by military courts in disregard of the provisions of the International Covenant on Civil and Political Rights;

(iii) At the temporary suspension of the activities of political parties, pending the referendum on a new constitution, and the fact that certain opposition figures have been detained or banished from Kinshasa;

(iv) At recent restrictions on the work of non-governmental organizations and, in particular, at the seizure of the report of a human rights organization and its recent dissolution;

(c) At the refusal to allow the Special Rapporteur to visit the Democratic Republic of the Congo in the discharge of his mandate and at the inability of the joint mission set up under Commission resolution 1997/58 to gain access in order to carry out its mandate;

(d) At the large numbers of refugees and displaced persons in the Democratic Republic of the Congo who disappeared between 1994 and 1997 and who have not yet been accounted for and at serious allegations of killings and other human rights abuses in this connection;

3. Calls upon the Government of the Democratic Republic of the Congo:

(a) To fully implement its commitment to the democratization process, respect for human rights and the rule of law;

(b) To continue with its timetable for preparations for the holding of free and fair elections drawing, where appropriate, on assistance from the international community and to allow the full restoration of political party activity sufficiently in advance of those elections to provide a meaningful choice for the people of the Democratic Republic of the Congo;

(c) To ensure full respect for freedom of opinion and expression, including for all mass media, as well as freedom of association and assembly throughout the territory of the Democratic Republic of the Congo;

(d) To work closely and strengthen further its cooperation with the office of the High Commission for Human Rights in Kinshasa;

(e) To promote human rights awareness, including by strengthening cooperation with civil society including human rights non-governmental organizations;

4. Expresses its serious concern at the circumstances which have obliged the Secretary-General to withdraw the Investigate Team set up under his auspices, including a series of obstacles faced by the Team, the temporary detention of one Team member, the seizure of United Nations documents and allegations of intimidation of witnesses; notes that the Secretary-General's Investigative Team will prepare a report based on its work to date within the Democratic Republic of the Congo and on such other sources as are available to it; requests the Secretary-General to report, with any comments and recommendations he may wish to make, inter alia to the General Assembly and to the Commission at its fifty-fifth session; and demands that the

Government of the Democratic Republic of the Congo cooperate fully with the Secretary-General, the United Nations High Commission for Human Rights and the Commission in addressing the allegations in question;

5. Decides:

(a) To extend the mandate of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo for a further year, requests the Special Rapporteur to submit an interim report to the General Assembly at its fifty-third session and to report to the Commission at its fifty-fifth session on human rights in the Democratic Republic of the Congo and on the possibilities for the international community to assist with local capacity-building, and also requests the Special Rapporteur to continue to keep a gender perspective in mind when seeking and analysing information;

(b) To request the Secretary-General to continue to give all necessary assistance to the Special Rapporteur to enable him to discharge his mandate fully;

(c) To request the international community to support the office of the High Commissioner for Human Rights in Kinshasa, in order, in particular:

(i) To strengthen its involvement in programmes of technical cooperation, advisory services and human rights advocacy programmes with the Government of the Democratic Republic of the Congo, including supporting efforts by the Government of the Democratic Republic of the Congo towards strengthening the judicial system;

(ii) To strengthen its support for, continue and expand cooperation with human rights non-governmental organizations in the Democratic Republic of the Congo;

6. Recommends the following draft resolution to the Economic and Social Council for adoption:

"The Economic and Social Council, taking note of Commission on Human Rights resolution 1998/61 of 21 April 1998, endorses the Commission's decision to extend the mandate of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo for a further year and requests him to report to the Commission at its fifty-fifth session on the situation of human rights in the Democratic Republic of the Congo and on the possibilities for the

international community to assist with local capacity-building, and also requests the Special Rapporteur to keep a gender perspective in mind when seeking and analysing information."

56th meeting
21 April 1998
[Adopted by a roll-call vote of 28 votes to 7, with 18 abstentions. See chap. X.]

1998/62. Human rights situation in southern Lebanon and western Bekaa

The Commission on Human Rights,

Gravely concerned at the persistent practices of the Israeli occupation forces in southern Lebanon and the western Bekaa which constitute a violation of the principles of international law regarding the protection of human rights, in particular the Universal Declaration of Human Rights, as well as a grave violation of the relevant provisions of international humanitarian law as contained in the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the Fourth Hague Convention of 1907,

Reiterating its deep regret at the failure of Israel to implement Security Council resolution 425 (1978) of 19 March 1978,

Recalling the provisions of the April Understanding of 26 April 1996,

Censuring the repeated Israeli aggressions in southern Lebanon and western Bekaa which cause a large number of deaths and injuries among civilians, displace thousands of families and destroy dwellings and properties,

Reaffirming that the continued occupation and practices of the Israeli forces constitute a violation of the relevant resolutions of the Security Council as well as of the will of the international community and the conventions in force on this matter,

Hoping that the efforts made in order to achieve peace in the Middle East will put an end to the violations of human rights that are being committed in the occupied zone in southern Lebanon and western Bekaa and that the peace negotiations will continue with a view to reaching a settlement of the Middle East conflict and achieving a just and comprehensive peace in the region,

Gravely concerned at the persistent detention by Israel of many Lebanese citizens in the detention centres of Khiyam and Marjayoun, and at the death of some of these detainees as a result of ill-treatment and torture,

Expressing its indignation at the ruling made public on 4 March 1998 by the Israeli Supreme Court permitting the Israeli authorities to retain Lebanese detainees in Israeli prisons without trial and to hold them as hostages and as a bargaining card, which constitutes a flagrant violation of the principles of human rights,

Reaffirming its resolution 1997/55 of 15 April 1997, and expressing its deep regret at the failure of Israel to implement that resolution,

1. Deplores the continued Israeli violations of human rights in the occupied zone in southern Lebanon and western Bekaa, demonstrated in particular by the abduction and ongoing arbitrary detention of Lebanese citizens, the destruction of their dwellings, the confiscation of their property, their expulsion from their land, the bombardment of peaceful villages and civilian areas, and other practices violating the most fundamental principles of human rights;

2. Calls upon Israel to put an immediate end to such practices, consisting in air raids and the use of prohibited weapons such as fragmentation bombs, and to implement Security Council resolution 425 (1978) of 19 March 1978 requiring Israel's immediate, total and unconditional withdrawal from all Lebanese territories and respect for the sovereignty, independence and territorial integrity of Lebanon;

3. Also calls upon the Government of Israel, the occupying Power of territories in southern Lebanon and western Bekaa, to comply with the Geneva Conventions of 1949, in particular the Geneva Convention relative to the Protection of Civilian Persons in Time of War;

4. Further calls upon the Government of Israel, the occupying Power of territories in southern Lebanon and western Bekaa, to refrain from holding Lebanese detainees incarcerated in its prisons as hostages for bargaining purposes, and to release them all immediately as well as the other persons detained in prisons and detention centres in the occupied territories in Lebanon in violation of all the Geneva Conventions and other provisions of international law;

5. Affirms the obligation for Israel, the occupying Power of territories in southern Lebanon and western Bekaa, to commit itself to

allowing the International Committee of the Red Cross and other international humanitarian organizations to recommence their periodic visits to the detainees and to verify their health and humanitarian conditions and, in particular, the circumstances in which some of them died as a result of ill-treatment and torture, and to allow the families of the detainees to resume their visits to the Khiyam detention centre to which they have been totally denied access since 10 September 1997;

6. Requests the Secretary-General:

(a) To bring the present resolution to the attention of the Government of Israel and to invite it to provide information concerning the extent of its implementation thereof;

(b) To report to the General Assembly at its fifty-third session and to the Commission on Human Rights at its fifty-fifth session on the results of his efforts in this regard;

7. Decides to continue its consideration of the situation of human rights in southern Lebanon and western Bekaa at its fifty-fifth session.

56th meeting
21 April 1998
[Adopted by a roll-call vote of 52 votes to 1, with no abstention. See chap. X.]

1998/63. Situation of human rights in Myanmar

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable human rights instruments,

Aware that the Universal Declaration of Human Rights states that the will of the people shall be the basis of the authority of government,

Mindful that Myanmar is a party to the Convention on the Rights of the Child and the Geneva Conventions of 1949 on the protection of victims of war,

Recalling previous resolutions of the General Assembly and the Commission on Human Rights on the subject, most recently Assembly resolution 52/137 of 12 December 1997 and Commission resolution 1997/64 of 16 April 1997,

1. Welcomes:

(a) The report of the Special Rapporteur (E/CN.4/1998/70) and the report of the Secretary General (E/CN.4/1998/163);

(b) The cooperation by the Government of Myanmar with the Office of the United Nations High Commissioner for Refugees and international non-governmental organizations with respect to the voluntary repatriation and reintegration of returnees from Bangladesh, and takes note of the role of the United Nations Children's Fund in the promotion in Myanmar of the Convention on the Rights of the Child;

(c) The accession of the Government of Myanmar on 22 July 1997 to the Convention on the Elimination of All Forms of Discrimination against Women;

(d) The Secretary-General's meeting with Senior General Than Shwe, Chairman of the State Peace and Development Council and Prime Minister, and the visits to Myanmar by the Special Envoy of the Secretary-General in May 1997 and in January 1998, for the purpose of discussions with the Government and with Aung San Suu Kyi and other political leaders;

(e) The remission of sentences for some long-term prisoners announced by the Government of Myanmar in December, and calls for this to be widened to include prisoners imprisoned for their peaceful political activities;

(f) The holding of the Party Congress of the National League for Democracy in September 1997 and subsequent meetings marking Myanmar's National Day, Independence Day and Union Day;

2. Takes note of the contact, despite its limited nature, between the Government of Myanmar and the National League for Democracy, but deeply regrets the failure of the Government of Myanmar to engage in a substantive political dialogue with Daw Aung San Suu Kyi and other political leaders, including representatives of ethnic groups;

3. Expresses its deep concern:

(a) At the continuing violations of human rights in Myanmar as reported by the Special Rapporteur, including extrajudicial, summary or arbitrary executions and enforced disappearances, torture, abuse of women and children by government agents, arbitrary seizures of land and property, violations of freedom of movement of people and goods, and the imposition of oppressive measures directed in particular at ethnic and religious minorities,

including systematic programmes of forced relocation, and the widespread use of forced labour, including work on infrastructure projects and as porters for the army;

(b) At the severe restrictions on the freedoms of opinion, expression, assembly and association, the restrictions on citizens' access to information including censorship controls on all forms of domestic media and many international publications and the restrictions imposed on citizens wishing to travel abroad, including the denial of passports on political grounds; at the continued closure of most institutions of higher education for political reasons, at the absence of due process of law, including arbitrary arrest and politically motivated arrest and detention, the detention of prisoners without trial and the trial of detainees in secrecy without proper legal representation; and at the inhuman treatment of prisoners, leading to illness and deaths in custody, as reported by the Special Rapporteur;

(c) At the violations of the rights of women, especially women who are refugees, internally displaced women and women belonging to ethnic minorities or the political opposition, in particular forced labour, sexual violence and exploitation, including rape, as reported by the Special Rapporteur;

(d) At continuing violations of the rights of children in contravention of the Convention on the Rights of the Child, in particular by the lack of conformity of the existing legal framework with the Convention, by recruitment of children into forced labour programmes and into the armed forces and by discrimination against children belonging to ethnic and religious minority groups;

(e) At the violations of the rights of persons belonging to minorities, including the systematic programmes of forced relocations directed against ethnic minorities, notably in Karen, Kayan, Rakhine and Shan States and in Tennasserim Division, resulting in displaced persons and flows of refugees to neighbouring countries, thus creating problems for the countries concerned, and deplores recent attacks on camps on the border between Thailand and Myanmar;

(f) That the Government of Myanmar still has not implemented its commitment to take all necessary steps towards democracy in the light of the democratic elections of 1990, while noting that the absence of respect for the rights pertaining to democratic governance is at the root of all major violations of human rights in Myanmar;

(g) That the Government of Myanmar refuses to cooperate with and has not yet agreed to a visit by the Special Rapporteur;

(h) That most of the representatives duly elected in 1990 are still excluded from participating in the meetings of the National Convention, created to prepare basic elements for the drafting of a new constitution, and that one of the objectives of the National Convention is to maintain the participation of the armed forces in a leading role in the future political life of the State, and notes also with concern that the composition and working procedures of the National Convention do not permit the elected representatives of the people freely to express their views, and concludes that the National Convention does not appear to constitute the necessary steps towards the restoration of democracy;

(i) At the restrictions placed upon political leaders, particularly Daw Aung San Suu Kyi, at the continued harassment, arrest and detention of members and supporters of the National League for Democracy and other democratic groups, students, trade unionists and members of religious orders for peacefully exercising their right to freedom of expression, assembly and association, and at the harsh sentences imposed on supporters of the National League for Democracy in December 1997, and at the forced resignations of elected representatives;

(j) At the imprisonment of members of the National League for Democracy, among others, and restrictions which have substantially disrupted legitimate gatherings of the National League for Democracy;

4. Calls upon the Government of Myanmar:

(a) To guarantee an end to violations of the right to life and integrity of the human being and to ensure full respect for human rights and fundamental freedoms, including freedoms of thought, opinion, expression, association and assembly, the right to a fair trial by an independent and impartial judiciary and the protection of the rights of persons belonging to ethnic and religious minorities;

(b) To take urgent and meaningful measures to ensure the establishment of democracy in accordance with the will of the people as expressed in the democratic elections held in 1990 and, to this end, to engage immediately and unconditionally in substantive dialogue with the leaders of political parties, including Daw Aung San Suu Kyi, and with leaders of ethnic groups, with the

aim of achieving national reconciliation and restoration of democracy, and to ensure that political parties and non-governmental organizations can function freely;

(c) To take all appropriate measures to allow all citizens to participate freely in the political process, in accordance with the principles of the Universal Declaration of Human Rights, and to accelerate the process of transition to democracy, in particular through the transfer of power to democratically elected representatives;

(d) Urgently to improve conditions of detention and to allow the competent international humanitarian organization to communicate freely and confidentially with prisoners;

(e) To cooperate fully and unreservedly with the relevant mechanisms of the Commission, in particular with the Special Rapporteur, and to ensure his access to Myanmar in order to establish direct contact with the Government and with any person in the country whom he may deem appropriate, to allow him fully to discharge his mandate;

(f) To continue to cooperate with the Secretary-General or his representatives and to broaden this dialogue, including through access to any person deemed appropriate by the Secretary-General, and to implement their recommendations;

(g) To ensure the safety and physical well-being of all political leaders, including Daw Aung San Suu Kyi, and to permit unrestricted communication with and physical access to Aung San Suu Kyi and other political leaders, and to release immediately and unconditionally those detained for political reasons, to ensure their physical integrity and to permit them to participate in a meaningful process of national reconciliation;

(h) To fulfil its obligations under the Convention on the Rights of the Child, including as set out in the concluding observations of the Committee on the Rights of the Child, and the Convention on the Elimination of All Forms of Discrimination against Women and to consider becoming a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention relating to the Status of Refugees, as well as to other human rights instruments;

(i) And all other parties to the hostilities in Myanmar to respect fully their obligations under international humanitarian law, including article 3 common to the Geneva Conventions of 12 August 1949, to halt the use of weapons against the civilian populations, to protect all civilians, including children, women and persons belonging to ethnic or religious minorities, from violations of humanitarian law and to avail themselves of services offered by impartial humanitarian bodies;

(j) To fulfil its obligations as a State party to the Forced Labour Convention, 1930 (No. 29) and to the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) of the International Labour Organization and to cooperate more closely with the International Labour Organization, in particular with the Commission of Inquiry appointed in accordance with article 26 of the Constitution of the International Labour Organization;

(k) To end the enforced displacement of persons and other causes of refugee flows to neighbouring countries and to create conditions conducive to their voluntary return and full reintegration in safety and dignity including, where these are lacking, rights of full citizenship, in close cooperation with the Office of the United Nations High Commissioner for Refugees;

(l) To fulfil its obligations to end impunity of perpetrators of human rights violations, including members of the military and to investigate and prosecute alleged violations committed by government agents in all circumstances;

(m) To investigate the circumstances which led to the death in June 1996 of Mr. James Leander Nichols while detained by the Government of Myanmar and to prosecute the person or persons responsible;

5. Decides:

(a) To extend the mandate of the Special Rapporteur, as contained in Commission resolution 1992/58 of 3 March 1992, for a further year, and requests the Special Rapporteur to submit an interim report to the General Assembly at its fifty-third session and to report to the Commission at its fifty-fifth session, and to keep a gender perspective in mind when seeking and analysing information;

(b) To request the Secretary-General to continue to give all necessary assistance to the Special Rapporteur to enable him to discharge his mandate fully and to pursue all efforts to ensure that the Special Rapporteur is authorized to visit Myanmar;

(c) To request the Secretary-General to continue his discussions with the Government of Myanmar and anyone he may consider appropriate in order to assist in the implementation of General Assembly resolution 52/137 and of the present resolution;

(d) To continue its consideration of this question at its fifty-fifth session.

56th meeting
21 April 1998
[Adopted without a vote. See chap. X.]

1998/64. Situation of human rights in Nigeria

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable human rights instruments,

Recalling that Nigeria is a party to, inter alia, the International Covenants on Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of the Child,

Recalling previous resolutions of the General Assembly and the Commission on Human Rights, most recently General Assembly resolution 52/144 of 12 December 1997 and Commission resolution 1997/53 of 15 April 1997,

Noting that the Commonwealth has been concerned about the continued existence of a military government and the failure to observe fundamental human rights, and has decided that Nigeria should remain suspended from the Commonwealth,

Noting also the decision of the Governing Body of the International Labour Organization at its 271st session in March 1998 to initiate a Commission of Inquiry into abuses of labour rights in Nigeria under the procedure set out in article 26 (4) of its Constitution,

1. Welcomes:

(a) The report on the situation of human rights in Nigeria submitted by the Special Rapporteur (E/CN.4/1998/62);

(b) The declared commitment by the Government of Nigeria to civilian rule, multi-party democracy and freedom of assembly, press and political activity by 1 October 1998, and recalling in this regard the declaration of 1 October 1995 which General Abacha reconfirmed on 17 November 1997;

2. Expresses its deep concern:

(a) At continuing grave violations of human rights and fundamental freedoms in Nigeria, including arbitrary detention, as well as failure to respect due process of law;

(b) That a number of military and civilian persons are being tried, in camera and without access to a lawyer of their own choice, in connection with an alleged coup attempt, by the same flawed judicial process which led to the arbitrary execution of Ken Saro-Wiwa and his associates;

(c) At the life-threatening prison conditions and at the death while in detention of Shehu Yar 'Adua;

(d) That the Nigerian authorities have refused a visit by the Special Rapporteur;

(e) That the absence of representative government in Nigeria has led to violations of human rights and fundamental freedoms and is contrary to the popular support for democratic government as evidenced in the 1993 elections;

3. Calls upon the Government of Nigeria:

(a) To ensure urgently the observance of human rights and fundamental freedoms, including by respecting the right to life, by releasing all political prisoners including those detained in connection with the 1993 presidential elections, among them Chief M.K.O. Abiola, trade union leaders, human rights advocates and journalists currently detained and by guaranteeing freedom of the press, freedom of opinion and association and respect for the rights of individuals, including persons belonging to minorities;

(b) To repeal all relevant decrees which oust the jurisdiction of the courts and to ensure that the court orders are promptly and fully implemented;

(c) To ensure that all trials are held fairly and promptly and in strict conformity with international human rights standards;

(d) To ensure that the treatment of prisoners and their conditions of detention are in accordance with recognized international standards;

(e) To abide by its freely undertaken obligations under the International Covenants on Human Rights and other human rights instruments, and notes with interest in this regard the recommendations of the Human Rights Committee to the Government of Nigeria (see CCPR/C/79/Add.65), and to respect the decisions of the African Commission on Human and Peoples' Rights as cited by the Special Rapporteur in his report;

(f) To take concrete and credible steps to restore democratic government without delay, to end rule by decree and to permit an observer presence during transition, as recommended by the United Nations fact-finding mission;

(g) To fulfil its obligations under the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) of the International Labour Organization and to cooperate without delay with the Commission of Inquiry of the International Labour Organization;

(h) To ensure the independence of the National Human Rights Commission in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights annexed to General Assembly resolution 48/134;

(i) To implement fully its interim undertakings to the Secretary-General without further delay and to respond in full to the recommendations of the Secretary-General's mission to Nigeria;

(j) To cooperate fully with the Commission and its mechanisms, including requests by the Special Rapporteur to visit Nigeria;

(k) To implement fully all the other recommendations of the Special Rapporteur;

4. Decides:

(a) To extend the mandate of the Special Rapporteur, as contained in Commission resolution 1997/53, for a further year, and requests the Special Rapporteur to submit an interim report to the General Assembly at its fifty-third session, and to report to the Commission at its fifty-fifth session, and to keep a gender perspective in mind when seeking and analysing information;

(b) To request the Secretary-General to continue to give all necessary assistance to the Special Rapporteur to enable him to discharge his mandate fully;

(c) To continue the examination of the situation of human rights in Nigeria at its fifty-fifth session under the same agenda item.

56th meeting
21 April 1998
[Adopted by a roll-call vote of 28 votes to 9, with 16 abstentions. See chap. X.]

1998/65. Situation of human rights in Iraq

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable human rights instruments,

Mindful that Iraq is a party to the International Covenants on Human Rights and to other international human rights instruments, and to the Geneva Conventions of 12 August 1949 on the protection of victims of war,

Recalling:

(a) Previous resolutions of the General Assembly and the Commission on Human Rights on the subject, most recently Assembly resolution 52/141 of 12 December 1997 and Commission resolution 1997/60 of 16 April 1997;

(b) Security Council resolutions 686 (1991) of 2 March 1991, in which the Council called upon Iraq to release all Kuwaitis and nationals of other States who might still be held in detention; 687 (1991) of 3 April 1991; 688 (1991) of 5 April 1991, in which the Council demanded an end to repression of the Iraqi civilian population and insisted that Iraq cooperate with humanitarian organizations and that the human rights of all Iraqi citizens be respected; and Security Council resolutions 986 (1995) of 14 April 1995; 1111 (1997) of 4 June 1997; 1129 (1997) of 12 September 1997; 1143 (1997) of 4 December 1997 and 1153 (1998) of 20 February 1998 by which the Council authorized States to permit imports of Iraqi oil in order to allow Iraq to purchase humanitarian supplies;

(c) The concluding observations of the Human Rights Committee (CCPR/C/79/Add.4), the Committee on the Elimination of Racial Discrimination (CERD/C/304/Add.28) and the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.17) on Iraq's recent reports to these treaty-monitoring bodies;

1. Welcomes the report on the situation of human rights in Iraq submitted by the Special Rapporteur (E/CN.4/1998/67) and the observations on the general situation, including in the northern region, and the conclusions and recommendations contained therein, and notes his dismay that there has been no improvement in the situation of human rights in the country;

2. Strongly condemns:

(a) The systematic, widespread and extremely grave violations of human rights and of international humanitarian law by the Government of Iraq, resulting in an all-pervasive repression and oppression sustained by broad-based discrimination and widespread terror;

(b) Suppression of freedom of thought, expression, belief, information, association, assembly and movement through fear of arrest, imprisonment and other sanctions, including the death penalty;

(c) Summary and arbitrary executions, including political killings, enforced or involuntary disappearances, routinely practised arbitrary arrests and detention and consistent and routine failure to respect due process and the rule of law, for example the brutal execution of four Jordanian nationals in December 1997 for minor property offences;

(d) Widespread, systematic torture in its most cruel forms, and the enactment and implementation of decrees prescribing cruel and inhuman punishment as a penalty for offences;

3. Calls upon the Government of Iraq:

(a) To abide by its freely undertaken obligations under international human rights treaties and international humanitarian law and respect and ensure the rights of all individuals, irrespective of their origin, ethnicity, gender or religion, within its territory and subject to its jurisdiction;

(b) To bring the actions of its military and security forces into conformity with the standards of international law, in particular those of the International Covenant on Civil and Political Rights;

(c) To cooperate with United Nations human rights mechanisms, in particular by receiving a return visit by the Special Rapporteur to Iraq and allowing the stationing of human rights monitors throughout Iraq pursuant to the relevant resolutions of the General Assembly and the Commission on Human Rights;

(d) To restore independence of the judiciary and abrogate all laws granting impunity to specified forces or persons killing or injuring individuals for any purpose beyond the administration of justice under the rule of law as prescribed by international standards;

(e) To abrogate all decrees that prescribe cruel and inhuman punishment or treatment, including mutilation, and to ensure that torture and cruel punishment and treatment no longer occur;

(f) To abrogate all laws and procedures, including Revolution Command Council Decree No. 840 of 4 November 1986, that penalize free expression, and to ensure that the genuine will of the people shall be the basis of authority of the State;

(g) To cooperate with the Tripartite Commission to establish the whereabouts and resolve the fate of the remaining several hundred missing persons, including prisoners of war, Kuwaiti nationals and third country nationals, victims of the illegal Iraqi occupation of Kuwait, to cooperate with the Working Group on Enforced or Involuntary Disappearance for that purpose, and to pay compensation to the families of those who died or disappeared in custody of the Iraqi authorities, through the mechanism established by the Security Council in resolution 692 (1991) of 20 May 1991;

(h) To cease immediately its repressive practices aimed at the Iraqi Kurds in the north, Assyrians, Shi'a, Turkmen, the population of the southern marsh areas, where drainage projects have provoked environmental destruction and a deterioration of the situation of the civilian population, and other ethnic and religious groups;

(i) To put an end without delay to the continuing enforced displacement of persons on discriminatory grounds;

(j) To cooperate with international aid agencies and non-governmental organizations to provide humanitarian assistance and monitoring in the northern and southern areas of the country;

(k) To release immediately all Kuwaitis and nationals of other States who may still be held in detention;

(l) To continue to cooperate in the implementation of Security Council resolutions 986 (1995), 1111 (1997), 1143 (1997) and 1153 (1998) and to continue to facilitate the work of United Nations humanitarian personnel in Iraq by ensuring the free and unobstructed movement of observers throughout the country;

(m) To ensure further equitable distribution without discrimination to the Iraqi population of the humanitarian supplies purchased with the proceeds of Iraqi oil, in implementation of Security Council resolutions 986 (1995), 1111 (1997), 1129 (1997), 1143 (1997), and 1153 (1998) and the memorandum of understanding with the Secretary-General of May 1996 on this issue, and to cooperate further with international humanitarian agencies for the provision without discrimination of relief to those in need throughout Iraq;

(n) To cooperate in the identification of minefields existing throughout Iraq with a view to facilitating their marking and eventual clearing;

4. Decides:

(a) To extend the mandate of the Special Rapporteur, as contained in Commission resolution 1991/74 of 6 March 1991 and subsequent resolutions, for a further year, and requests the Special Rapporteur to submit an interim report on the situation of human rights in Iraq to the General Assembly at its fifty-third session and to report to the Commission at its fifty-fifth session;

(b) To request the Secretary-General to continue to give all necessary assistance to the Special Rapporteur to enable him to discharge his mandate fully, and to approve the allocation of sufficient human and material resources for the sending of human rights monitors to such locations as would facilitate improved information flow and assessment and help in the independent verification of reports on the situation of human rights in Iraq;

(c) To continue the examination of the situation of human rights in Iraq at its fifty-fifth session under the same agenda item.

56th meeting
21 April 1998
[Adopted by a roll-call vote of 32 votes to none, with 21 abstentions. See chap. X.]

1998/66. Cooperation with representatives of United Nations human rights bodies

The Commission on Human Rights,

Reiterating its concern at the continued reports of intimidation and reprisals against private individuals and groups who seek to cooperate with the United Nations and representatives of its human rights bodies,

Also concerned at reports about incidents where private individuals have been hampered in their efforts to avail themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms,

Recalling in resolutions 1990/76 of 7 March 1990, 1991/70 and 6 March 1991, 1992/59 of 3 March 1992, 1993/64 of 10 March 1993, 1994/70 of 9 March 1994, 1995/75 of 8 March 1995, 1996/70 of 23 April 1996 and 1997/56 of 15 April 1997, and taking note of the report of the Secretary-General on the question (E/CN.4/1998/57),

1. Urges Governments to refrain from all acts of intimidation or reprisal against:

(a) Those who seek to cooperate or have cooperated with representatives of United Nations human rights bodies, or who have provided testimony or information to them;

(b) Those who avail or have availed themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms and all those who have provided legal assistance to them for this purpose;

(c) Those who submit or have submitted communications under procedures established by human rights instruments;

(d) Those who are relatives of victims of human rights violations;

2. Requests all representatives of United Nations human rights bodies, as well as treaty bodies monitoring the observance of human rights, to continue to take urgent steps, in conformity with their mandates, to help prevent the hampering of access to United Nations human rights procedures in any way;

3. Also requests all representatives of United Nations human rights bodies, as well as treaty bodies monitoring the observance of human rights, to continue to take urgent steps, in conformity with their mandates, to help prevent the occurrence of such intimidation and reprisals;

4. Further requests such representatives and treaty bodies to continue to include in their respective reports to the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities or the General Assembly a reference to allegations of

intimidation or reprisal and of hampering of access to United Nations human rights procedures, as well as an account of action taken by them in this regard;

5. Requests the Secretary-General to draw the attention of such representatives and treaty bodies to the present resolution;

6. Invites the Secretary-General to submit to the Commission at its fifty-fifth session a report containing a compilation and analysis of any available information, from all appropriate sources, on alleged reprisals against those referred to in paragraph 1 above;

7. Decides to consider the question again at its fifty-fifth session.

56th meeting
21 April 1998
[Adopted without a vote. See chap. X.]

1998/67. Situation of human rights in the Sudan

The Commission on Human Rights,

Reaffirming the solemn commitment of all States to fulfil their obligations to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all in accordance with the Charter of the United Nations, other instruments relating to human rights and international law,

Recalling General Assembly resolution 52/140 of 12 December 1997 and its own resolution 1997/59 of 15 April 1997 on the situation of human rights in the Sudan,

Realizing the urgent need for implementing effective measures, nationally, regionally and internationally, to protect the civilian population, especially persons belonging to minorities, women and children, in the Sudan and northern Uganda from the effects of armed conflict,

Noting with deep concern continuing reports of grave human rights abuses and violations in the Sudan as noted in its resolution 1997/59, including detentions without trial, forced displacement of persons and torture, as described in, inter alia, numerous reports submitted to the General Assembly and the Commission on Human Rights,

Greatly disturbed by reports that these practices have frequently been carried out by agents under government authority or take place with the knowledge of the Government of the Sudan,

Taking note of efforts reported by the Government of the Sudan to investigate such activities and practices as urged by the General Assembly in resolution 52/140,

Expressing concern that the report on the events in Juba issued by the Government of the Sudan does not satisfactorily clarify the question of the summary executions and reported extrajudicial killings, torture and arbitrary arrests which took place in the town of Juba in the summer of 1991,

Pleased at the invitations extended by the Government of the Sudan to the Special Rapporteur on the situation of human rights in the Sudan and the Special Rapporteurs on religious intolerance and on freedom of expression and opinion and the Working Group on Contemporary Forms of Slavery, Amnesty International, The Human Rights Committee of the House of Lords of the United Kingdom and the United Nations High Commissioner for Human Rights,

Noting with appreciation the report of the Special Rapporteur on the situation of human rights in the Sudan (E/CN.4/1998/66),

Noting the establishment by the Government of the Sudan of National Committees for Human Rights Education, and encouraging the Office of the High Commissioner for Human Rights to take into consideration requests for assistance by the Government of the Sudan, including assistance to help those committees to improve the observance of human rights in the Sudan,

Welcoming the establishment by the Consultative Council of Human Rights of subcommittees on detentions without trial, arrests, torture and the lack of due process of law; religious persecution; forced displacement and bombardments; extrajudicial killings; access for relief organizations and humanitarian law; slavery and disappearances; the rights of women; the rights of the child; and freedom of expression and peaceful assembly, and expressing the hope that its efforts will positively influence the human rights situation in the Sudan,

Also welcoming the emerging efforts of the Government of the Sudan which are centred on rehabilitating street children and reuniting them with their families,

1. Expresses its deep concern at continued serious human rights violations in the Sudan, including summary executions, extrajudicial killings, arbitrary arrests, detentions without due process, enforced or involuntary disappearances, violations of the rights of women and children, slavery and slavery-like practices, forced displacement of persons and systematic torture,

and denial of the freedom of religion, expression, association and peaceful assembly, and emphasizes that it is essential to put an end to violations of human rights in the Sudan;

2. Also expresses its deep concern at the actions by all parties to the conflict, including abduction, trafficking and sale of children, kidnappings, arbitrary detention, forced conscription, indiscriminate killings and forced displacement in the Sudan and neighbouring countries, as well as the failure to safeguard prisoners of war;

3. Expresses its outrage at the use by all parties to the conflict of military force to disrupt or attack relief efforts, and calls again upon the Government of the Sudan and all parties to the conflict to permit international agencies, humanitarian organizations and donor Governments to deliver humanitarian assistance to all war-affected civilians and to cooperate with initiatives of the Office for the Coordination of Humanitarian Affairs of the Secretariat and Operation Lifeline Sudan to deliver such assistance;

4. Renews its call to the Government of the Sudan to respect human rights fully, and calls upon all parties to the conflict to cooperate in order to ensure such respect;

5. Urges the Government of the Sudan to ensure that all limitations on the construction of places of worship are abolished and that the destruction of places of worship ceases and to establish a culture of religious tolerance and non-discrimination that does not jeopardize the free exercise of religious activities;

6. Calls upon all parties to the hostilities to respect fully the applicable provisions of international humanitarian law, including article 3 common to the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 1977, to halt the use of weapons, including landmines, against the civilian population, and to protect all civilians, especially persons belonging to minorities, women and children, from violations of human rights and humanitarian law, including forcible displacement, arbitrary detention, ill-treatment, torture and summary executions;

7. Again urges the Government of the Sudan to release all remaining political detainees, cease all acts of torture and cruel, inhuman or degrading punishment, close down all clandestine or unacknowledged detention centres and ensure that all accused persons are held in ordinary police or prison custody

where family members and lawyers can visit them and that such persons receive prompt, just and fair trials under internationally recognized standards;

8. Calls upon the Government of the Sudan to comply with applicable international human rights instruments and to bring its national legislation into accordance with those instruments to which the Sudan is a party, and to ensure that all individuals in its territory and subject to its jurisdiction, including members of all religious and ethnic groups, enjoy fully the rights recognized in those instruments;

9. Also calls upon the Government of the Sudan and other parties to civil conflicts to ensure that their forces are properly trained and act in compliance with the standards set forth in international humanitarian law, and that those responsible for violations of such law are brought to justice;

10. Urges the Government of the Sudan to investigate reports that its policies and activities support, condone, encourage or foster the abduction, sale of or trafficking in children and that it subjects children to forced internment, indoctrination or other cruel, inhumane or degrading treatment or punishment, and also urges the Government of the Sudan to terminate immediately any such policies or activities and bring to trial any persons suspected of supporting or participating in them and to facilitate the safe return of affected children to their families;

11. Welcomes the assistance the Government of the Sudan provided to the United Nations Children's Fund and the Office of the United Nations High Commissioner for Refugees in the return of a group of abducted Ugandan children to their home country, and urges continued cooperation by the Government of the Sudan to achieve the return of the remaining abducted children;

12. Calls upon the Government of the Sudan to cooperate fully with the Special Committee on Allegations of Enforced or Involuntary Disappearances and Reported Cases of Slavery, and expresses the hope that the Committee will, in an independent manner, actively pursue investigations into cases of slavery, the slave trade, forced labour and similar institutions and practices in all parts of the country, producing more than the single report which it has published thus far;

13. Urges the Government of the Sudan to take all appropriate measures to put an immediate end to these practices;

14. Urges the Government of the Sudan to bring to an end without delay all violations of human rights of women and girls, especially in the light of the Beijing Declaration and Platform for Action (A/CONF.177/20) adopted at the Fourth World Conference on Women, and to take urgent measures to ensure the repeal of all legislative and other measures which discriminate against women;

15. Calls upon the Government of the Sudan to cease immediately the deliberate and indiscriminate aerial bombardment of civilian targets and relief operations;

16. Urges all parties to the conflict to cooperate fully with the peace efforts of the Intergovernmental Authority on Drought and Development to negotiate an equitable resolution of the civil conflict and ensure respect for the human rights and fundamental freedoms of the Sudanese people, thereby facilitating the return of refugees and internally displaced persons to their homes;

17. Expresses once again the hope that the dialogue between non-governmental organizations and religious minorities in the Sudan will be continued in order to improve relations between those minorities and the Government of the Sudan;

18. Decides to extend the mandate of the Special Rapporteur for an additional year;

19. Requests the Secretary-General to give the Special Rapporteur all necessary assistance, from within existing resources, in the discharge of his mandate;

20. Stresses the importance of the Special Rapporteur continuing to apply a gender perspective systematically in the reporting process, including information collection and recommendations;

21. Encourages the Special Rapporteurs on religious intolerance and on freedom of opinion and expression to consult with the Special Rapporteur on the situation of human rights in the Sudan and to accept the invitations of the Government of the Sudan;

22. Recommends that priority be given, within existing resources, to the placement of human rights field officers to monitor the situation of human rights in the Sudan, in the locations, under the modalities and for the objectives suggested by the Special Rapporteur;

23. Requests the Special Rapporteur to report to the Commission on Human Rights on the future need for human rights field officers, with the understanding that the Commission will, at its fifty-fifth session, reassess such need;

24. Requests the Special Rapporteur to report his findings and recommendations to the General Assembly at its fifty-third session and to the Commission on Human Rights at its fifty-fifth session;

25. Decides to continue its consideration of this question as a matter of priority at its fifty-fifth session.

56th meeting
21 April 1998
[Adopted by a roll-call vote of 31 votes to 6, with 16 abstentions. See chap. X.]

1998/68. Extrajudicial, summary or arbitrary executions

The Commission on Human Rights,

Recalling the Universal Declaration of Human Rights, which guarantees the right to life, liberty and security of person, and the relevant provisions of the International Covenant on Civil and Political Rights,

Having regard to the legal framework of the mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions, including the provisions contained in Commission resolution 1992/72 of 5 March 1992 and General Assembly resolution 47/136 of 18 December 1992,

Mindful of General Assembly resolutions on the subject of extrajudicial, summary or arbitrary executions, of which the latest is resolution 51/92 of 12 December 1996, in which the General Assembly requested the Special Rapporteur to submit at its fifty-third session an interim report on the situation worldwide in regard to extrajudicial, summary or arbitrary executions and his recommendations for more effective action to combat that phenomenon,

Recalling Economic and Social Council resolution 1984/50 of 25 May 1984 and the Safeguards guaranteeing protection of the rights of those facing the death penalty annexed thereto and Council resolution 1989/64 of 24 May 1989 on their implementation, as well as the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the General Assembly in its resolution 40/34 of 29 November 1985,

Deeply alarmed at the persistence, on a large scale, of extrajudicial, summary or arbitrary executions in all parts of the world,

Dismayed that in a number of countries impunity, the negation of justice, continues to prevail and often remains the main cause of the continued occurrence of extrajudicial, summary or arbitrary executions in those countries,

Convinced of the need for effective action to combat and to eliminate the abhorrent practice of extrajudicial, summary or arbitrary executions, which represent a flagrant violation of the fundamental right to life,

1. Strongly condemns once again all the extrajudicial, summary or arbitrary executions that continue to take place throughout the world;

2. Demands that all Governments ensure that the practice of extrajudicial, summary or arbitrary executions be brought to an end and that they take effective action to combat and eliminate the phenomenon;

3. Notes that impunity continues to be a major cause of the perpetuation of violations of human rights, including extrajudicial, summary or arbitrary executions;

4. Reiterates the obligation of all Governments to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions, to identify and bring to justice those responsible, to grant adequate compensation to the victims or their families and to adopt all necessary measures to prevent the recurrence of such executions;

5. Calls upon the Governments of all States in which the death penalty has not been abolished to comply with their obligations under relevant provisions of international human rights instruments, keeping in mind the safeguards and guarantees set out in Economic and Social Council resolutions 1984/50 and 1989/64;

6. Takes note of the report of the Special Rapporteur (E/CN.4/1998/68 and Add.1-3), including the attention given therein to various aspects and situations of violations of the right to life by extrajudicial, summary or arbitrary executions as well as the recommendations made after his visits to particular countries;

7. Commends the important role the Special Rapporteur has played towards the elimination of extrajudicial, summary or arbitrary executions and encourages him to continue, within the framework of his mandate, to

collect information from all concerned and to seek the views and comments of Governments in order to be able to respond effectively to reliable information that comes before him and to follow up on communications and country visits;

8. Requests the Special Rapporteur, in carrying out his mandate:

(a) To continue to examine situations of extrajudicial, summary or arbitrary executions and to submit his findings on an annual basis, together with conclusions and recommendations, to the Commission on Human Rights, as well as such other reports as the Special Rapporteur deems necessary in order to keep the Commission informed about serious situations of extrajudicial, summary or arbitrary executions that warrant its immediate attention;

(b) To respond effectively to information which comes before him, in particular when an extrajudicial, summary or arbitrary execution is imminent or seriously threatened or when such an execution has occurred;

(c) To enhance further his dialogue with Governments, as well as to follow up on recommendations made in reports after visits to particular countries;

(d) To continue to pay special attention to extrajudicial, summary or arbitrary executions of children and to allegations concerning violations of the right to life in the context of violence against participants in demonstrations and other peaceful public manifestations or against persons belonging to minorities;

(e) To pay special attention to extrajudicial, summary or arbitrary executions where the victims are individuals carrying out peaceful activities in defence of human rights and fundamental freedoms;

(f) To continue monitoring the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment, bearing in mind the comments made by the Human Rights Committee in its interpretation of article 6 of the International Covenant on Civil and Political Rights, as well as the Second Optional Protocol thereto;

(g) To apply a gender perspective in his work;

9. Urges the Special Rapporteur to draw to the attention of the United Nations High Commissioner for Human Rights such situations of extrajudicial, summary or arbitrary executions as are of particularly serious concern to him or where early action might prevent further deterioration;

10. Welcomes the cooperation established between the Special Rapporteur and other United Nations mechanisms and procedures in the field of human rights and encourages the Special Rapporteur to continue efforts in this regard;

11. Urges Governments to undertake all necessary and possible measures to prevent loss of life during situations of public demonstrations, internal and communal violence, disturbances, tension and public emergency or armed conflicts, and to ensure that the police and security forces receive thorough training in human rights matters, in particular with regard to restrictions on the use of force and firearms in the discharge of their functions;

12. Appeals to all Governments to ensure that all persons deprived of their liberty are treated with humanity and with respect for the inherent dignity of the human person and that conditions in places of detention conform to the Standard Minimum Rules for the Treatment of Prisoners and, where applicable, to the Geneva Conventions of 1949 and the Additional Protocols thereto of 1977 in relation to the treatment of prisoners in armed conflicts, as well as to other pertinent international instruments;

13. Strongly urges all Governments:

(a) To cooperate with and assist the Special Rapporteur so that his mandate may be carried out effectively, including, where appropriate, by issuing invitations to the Special Rapporteur when he so requests, in keeping with the usual terms of reference for missions by special rapporteurs of the Commission on Human Rights;

(b) To respond to the communications transmitted to them by the Special Rapporteur;

14. Expresses its appreciation to those Governments that have invited the Special Rapporteur to visit their countries, asks them to examine carefully the recommendations made by him, invites them to report to the Special Rapporteur on actions taken on those recommendations, and requests other Governments, including those mentioned in the report of the Special Rapporteur, to cooperate in a similar way;

15. Expresses its concern that a number of Governments mentioned in the report of the Special Rapporteur have not replied to specific allegations and reports of extrajudicial, summary or arbitrary executions transmitted to them by the Special Rapporteur;

16. Encourages Governments, United Nations bodies and organs, the specialized agencies and intergovernmental and non-governmental organizations, as appropriate, to initiate, coordinate or support programmes designed to train and educate military forces, law enforcement officers and government officials, as well as members of the United Nations peacekeeping or observer missions, on human rights and humanitarian law issues connected with their work, and appeals to the international community to support endeavours to that end;

17. Requests the Secretary-General to provide the Special Rapporteur with an adequate and stable level of human, financial and material resources, in order to enable him to continue to carry out his mandate effectively, including through country visits;

18. Also requests the Secretary-General to continue to use his best endeavours in cases where the minimum standard of legal safeguards provided for in articles 6, 9, 14 and 15 of the International Covenant on Civil and Political Rights appear not to be respected;

19. Further requests the Secretary-General to continue, in close collaboration with the High Commissioner for Human Rights, in conformity with the High Commissioner's mandate established by the General Assembly in its resolution 48/141 of 20 December 1993, to ensure that personnel specialized in human rights and humanitarian law issues form part of United Nations missions, where appropriate, in order to deal with serious human rights violations, such as extrajudicial, summary or arbitrary executions;

20. Decides to extend the mandate of the Special Rapporteur for three years;

21. Decides also to consider the question of extrajudicial, summary or arbitrary executions as a matter of priority at its fifty-fifth session under the same agenda item;

22. Recommends the following draft decision to the Economic and Social Council for adoption:

"The Economic and Social Council, taking note of Commission on Human Rights resolution 1998/68 of 21 April 1998, endorses the Commission's decision to extend for three years the mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Commission's request to the Secretary-General to provide the Special Rapporteur with

an adequate and stable level of human, financial and material resources in order to enable him to continue to carry out his mandate effectively, including through country visits."

57th meeting
21 April 1998

[Adopted without a vote. See chap. X.]

1998/69. Situation of human rights in Rwanda

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide and other applicable human rights and humanitarian law standards,

Recalling its resolutions S-3/1 of 25 May 1994, 1995/91 of 8 March 1995, 1996/76 of 23 April 1996 and 1997/66 of 16 April 1997,

Reaffirming that the protection and promotion of human rights are necessary for sustaining the process of national reconstruction and reconciliation in Rwanda,

Noting with satisfaction the commitment of the Government of Rwanda to promote and protect respect for human rights and fundamental freedoms as well as eliminate impunity, the progress made towards the development of a State governed on the basis of the rule of law, and efforts undertaken to consolidate peace and stability and promote unity and reconciliation,

Noting the massive return to the country from the Democratic Republic of the Congo and the United Republic of Tanzania of more than one million Rwandan refugees and welcoming the efforts made by the Government to resettle and reintegrate those refugees,

Welcoming the ongoing rehabilitation of the judicial system of Rwanda, recognizing the need for the continuation of prosecution by national jurisdictions of those suspected of having committed the crime of genocide and the massacres in Rwanda, and concerned by the very large number of detainees awaiting trial,

1. Takes not with satisfaction of the report on the situation of human rights in Rwanda (E/CN.4/1998/60) or the Special Representative of the Commission on Human Rights, the report (E/CN.4/1998/61) of the United Nations

High Commissioner for Human Rights on the activities of the Human Rights Field Operation in Rwanda and the report (E/CN.4/1998/54/Add.1) of the Special Rapporteur on violence against women;

2. Commends the Government of Rwanda for the cooperation and assistance extended to the Special Representative and the Special Rapporteur on violence against women, and noting its cooperation with the Human Rights Field Operation in Rwanda;

3. Encourages further efforts of the Government of Rwanda to build a State based on the guarantee of respect for human rights and fundamental freedoms in accordance with the Universal Declaration of Human Rights and other relevant international human rights instruments;

4. Reiterates its strong condemnation of the crime of genocide, crimes against humanity and all other violations of human rights perpetrated in Rwanda, and expresses its concern at the continuation of human rights violations in Rwanda;

5. Reaffirms that all persons who committed or authorized acts of genocide or other grave violations of human rights and international humanitarian law are individually responsible and accountable for those violations;

6. Urges the Government of Rwanda to give utmost priority to the prosecution and punishment of crimes of sexual violence committed against women, in line with the recommendations of the Special Rapporteur on violence against women;

7. Strongly condemns continuing violence and genocidal activities perpetrated in Rwanda by former members of the Rwandan armed forces, Interahamwe and other insurgent groups, and notes with concern the negative impact they may have on the efforts of the Government of Rwanda to consolidate peace and security and achieve national unity, reconciliation and reconstruction;

8. Condemns the illegal sale and distribution of arms which undermines peace and stability in Rwanda and the region;

9. Encourages the Government of Rwanda to continue to investigate and prosecute violations of human rights and humanitarian law committed by individual members of the security forces in the course of military operations against insurgent groups including through strengthening military justice, with assistance from donor States;

10. Affirms the importance it attaches to the safety of the staff of the United Nations and other humanitarian workers serving in Rwanda;

11. Welcomes the draft Law on Matrimonial Property and Succession now under consideration in Rwanda and encourages the Government of Rwanda to continue its efforts to improve the welfare, status and role of women, especially genocide survivors and returnees, in Rwandan society, with particular attention to matters concerning property;

12. Reiterates its sympathy and solidarity with genocide survivors, commends the Government of Rwanda for establishing a fund to assist them, commends those Governments that have contributed to the fund and urges other States to contribute generously;

13. Commends the work carried out by the Human Rights Field Operation in Rwanda and welcomes the ongoing review of its role, priority and functions;

14. Expresses its deep concern regarding the conflict in the north-west of Rwanda and recognizes the need to improve monitoring of human rights abuses in that region, in particular by strengthening national human rights monitoring capacity;

15. Notes the progress made by the Government of Rwanda in establishing a national human rights commission;

16. Encourages the Government of Rwanda to facilitate a broad public debate on how a national human rights commission can be made an independent and effective institution, established by law and based on recognized international norms;

17. Requests the international community to provide financial and technical support necessary for the reconstruction of human rights infrastructure generally and the effective functioning of a national human rights commission in particular;

18. Welcomes the continuation of the trials of those suspected of genocide and crimes against humanity in Rwanda and the improvements that have been made in the trial process, and stresses the need for continued efforts by the Government of Rwanda to further strengthen fair trial guarantees;

19. Expresses concern that perpetrators of the genocide and other gross violations of human rights continue to evade justice;

20. Reiterates its request that all States cooperate fully with the International Tribunal for Rwanda and the Government of Rwanda in ensuring

that all those responsible for the crime of genocide, crimes against humanity and other grave violations of human rights are brought to justice in accordance with international principles of due process;

21. Expresses concern at the slow rate of progress in the proceedings of the International Tribunal for Rwanda and encourages further measures to speed up proceedings;

22. Reiterates its concern at the conditions of detention in some detention centres, emphasizes the need for greater attention and resources to be directed to this problem and again urges the international community to assist the Government of Rwanda in this area;

23. Welcomes and encourages the efforts of the Government of Rwanda to reduce the prison population by releasing minors, elderly prisoners, prisoners suffering from terminal illnesses and suspects with incomplete files, and affirms the urgent need to complete a dossier for every detainee with a view to identifying those who should be released immediately, early or conditionally;

24. Reiterates its appeal to the international community to provide financial and technical assistance to the Government of Rwanda to help strengthen the administration of justice, including as regards adequate access to legal representation, to prosecute those responsible for genocide and other violations of human rights and to promote the rule of law in Rwanda, and notes with appreciation assistance already provided by the donor community;

25. Recommends that the international community continue to provide development assistance for the reconstruction and long-term stability of Rwanda;

26. Welcomes the commitment of the Government of Rwanda to promoting national unity and reconciliation and calls upon the Government to continue its efforts in that field;

27. Commends the Special Representative for his work, decides to extend his mandate for a further year, requests him to report to the General Assembly at its fifty-third session and to the Commission on Human Rights at its fifty-fifth session, in accordance with his mandate, and requests the Secretary-General to provide him with such financial assistance as he may require;

28. Calls for close consultation between the Special Representative and the Government of Rwanda regarding the functioning of the future national human rights Commission;

29. Requests the United Nations High Commissioner for Human Rights to submit reports on the work of the Human Rights Field Operation in Rwanda and on the implementation of the present resolution to the Commission on Human Rights at its fifty-fifth session and to the General Assembly at its fifty-third session;

30. Recommends the following draft decision to the Economic and Social Council for adoption:

"The Economic and Social Council, taking note of Commission on Human Rights resolution 1998/69 of 21 April 1998, endorses the Commission's decision to extend the mandate of the Special Representative on the situation of human rights in Rwanda to make recommendations on how to improve the human rights situation in Rwanda, to facilitate the creation and effective functioning of an independent national human rights commission in Rwanda, and further to make recommendations on situations in which technical assistance to the Government of Rwanda in the field of human rights may be appropriate, for a further year and requests him to report to the General Assembly at its fifty-third session and to the Commission on Human Rights at its fifty-fifth session, in accordance with his mandate. The Council requests the Secretary-General to provide him with such financial assistance as he may require to discharge his mandate."

57th meeting
21 April 1998
[Adopted without a vote. See chap. X.]

1998/70. The question of human rights in Afghanistan

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and accepted humanitarian rules, as set out in the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 1977,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations they have freely undertaken under the various international instruments,

Recalling that Afghanistan is a party to the Convention on the Prevention and Punishment of the Crime of Genocide, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child, and that it has signed the Convention on the Elimination of All Forms of Discrimination against Women,

Recalling its previous resolutions, most recently resolution 1997/65, and General Assembly resolutions 52/145 of 12 December 1997, 52/211 of 19 December 1997, Security Council resolution 1076 (1996) of 22 October 1996 and the statements by the President of the Security Council of 16 December 1997 (S/PRST/1997/55) and 6 April 1998 (S/PRST/1998/9),

Concerned that armed confrontation persists in Afghanistan and by the increasingly ethnic nature of the conflict,

Recalling that the United Nations continues to play its central and impartial role in international efforts towards a peaceful resolution of the Afghan conflict and encouraging all efforts at the national, regional and international levels aimed at finding a solution to the continuing conflict through a broad-based dialogue involving all key actors in Afghanistan,

Taking into account the report of the Special Adviser to the Secretary-General on Gender Issues and Advancement of Women on her visit to Afghanistan in November 1997,

1. Takes note with appreciation of the report of the Special Rapporteur on the situation of human rights in Afghanistan (E/CN.4/1998/71) and of the conclusions and recommendations contained therein;

2. Notes with deep concern:

(a) The ongoing further deterioration of the situation of human rights in Afghanistan;

(b) The continuing and substantiated reports of violations of the human rights of women and girls, including all forms of discrimination against them, particularly in areas under the control of the Taliban;

(c) The intensification of armed hostilities in Afghanistan, which have resulted in extensive human suffering, forced displacement, including on the ground of ethnicity, and which hinders the return of the internally displaced to their homes;

(d) Reports of mass killings and atrocities committed by combatants against civilian population and prisoners of war;

(e) The sharp deterioration of the humanitarian situation in several areas of Afghanistan;

(f) The continued displacement of millions of Afghan refugees in Pakistan and the Islamic Republic of Iran;

(g) Reports of the destruction and looting of the cultural and historical heritage of Afghanistan;

(h) The lack of major reconstruction in Afghanistan;

3. Condemns:

(a) The widespread violations and abuses of human rights and humanitarian law, including the rights to life, liberty and security of person, freedom from torture and from other forms of cruel, inhuman or degrading treatment or punishment, freedom of opinion, expression, religion, association and movement, and, in particular, the human rights of women and girls;

(b) The frequent practice of arbitrary arrest and detention and of summary trials, which have resulted in summary executions, throughout the country, including the recent public executions of male convicts which were carried out by burying the victims alive;

(c) Actions by all parties that constitute interference with the delivery of humanitarian assistance to the civilian population of Afghanistan and which jeopardize the safety of humanitarian personnel, such as the blockade of the Bamyan region and the bombing of the Bamyan airport, as well as the looting, particularly by elements of the Northern Alliance, on a massive scale of United Nations and other warehouses and offices in Mazar-e-Sharif;

4. Urges all States to respect the sovereignty, independence, territorial integrity and national unity of Afghanistan and to refrain from interfering in its internal affairs;

5. Urges all the Afghan parties:

(a) To cease hostilities immediately and to work and cooperate fully with the Special Envoy and the United Nations Special Mission to Afghanistan with a view to achieving a ceasefire, thus laying the foundation for a comprehensive political solution leading to the voluntary return of displaced persons to their homes in safety and dignity and to the establishment of a broad-based fully representative government through the full exercise of the right to self-determination of the people of Afghanistan;

(b) To bring to an end without delay all violations of human rights of women and girls and to take urgent measures to ensure:

(i) The repeal of all legislative and other measures which discriminate against women;

(ii) Effective participation of women in civil, cultural, economic, political and social life throughout the country;

(iii) Respect for the right of women to work, and reintegration in their employment;

(iv) The right of women and girls to education without discrimination, the reopening of schools and the admission of women and girls to all levels of education;

(v) Respect for women's right to security of person, and to ensure that those responsible for physical attacks on women are brought to justice;

(vi) Respect for women's freedom of movement and effective and equal access to facilities necessary to protect their right to the highest attainable standard of physical and mental health;

(c) To respect fully international humanitarian law, to protect civilians, to halt the use of weapons against the civilian population, to stop the laying of landmines, especially anti-personnel mines, to prohibit forced conscription and the drafting and recruitment of children as para-combatants and to ensure their reintegration into society;

(d) To provide sufficient and effective remedies to the victims of grave violations and abuses of human rights and of accepted humanitarian rules and to bring the perpetrators to trial;

(e) To fulfil their obligations and commitments regarding the safety of all personnel of diplomatic missions, the United Nations and other

international organizations, as well as of their premises in Afghanistan, and to cooperate, fully and without discrimination on grounds of gender, nationality or religion, with the United Nations and associated bodies as well as with other humanitarian organizations and agencies, including the International Committee of the Red Cross, and non-governmental organizations;

(f) To provide the International Committee of the Red Cross access to all prisoners;

(g) To treat all suspects and convicted or detained persons in accordance with relevant international instruments and to refrain from arbitrary detention, including of civilian foreign nationals, and urges their captors to release them, as well as non-criminal civilian prisoners;

(h) To protect and safeguard the cultural and historical heritage of Afghanistan;

6. Encourages:

(a) The Secretary-General to continue fully to investigate reports of mass killings of prisoners of war and civilians and cases of rape in Afghanistan, and requests all Afghan parties to cooperate with such investigation;

(b) The Secretary-General to exert efforts to ensure a gender perspective in the selection of the staff of the United Nations Special Mission for Afghanistan, in order to enhance the role of women in preventive diplomacy, peacemaking and peacekeeping;

(c) The Special Rapporteur to continue to pay attention to the human rights of women and children and to apply a gender perspective in a similar manner in his report to the Commission at its fifty-fifth session;

(d) The United Nations to offer, once national reconciliation is achieved and upon request of the governmental authorities, advisory services and technical assistance concerning, inter alia, the drafting of a constitution, which should embody internationally accepted human rights principles and provide for the holding of direct elections;

7. Welcomes the recent release of prisoners of war and calls for the unconditional and simultaneous release of all remaining prisoners of war, wherever they are held, including former Soviet prisoners of war, and for the tracing of the many Afghans still missing as the result of the war;

8. Appeals to Member States and to the international community:

(a) To provide, on a non-discriminatory basis, humanitarian assistance to the people of Afghanistan and to the Afghan refugees in the neighbouring countries;

(b) To intensify the programme for the removal of millions of anti-personnel landmines laid in Afghanistan;

(c) To ensure that all United Nations-assisted programmes in Afghanistan are formulated and coordinated in such a way as to promote and ensure the participation of women in those programmes, and that women benefit equally with men from such programmes;

(d) To implement the recommendations of the inter-agency gender mission in Afghanistan under the leadership of the Special Adviser of the Secretary-General on Gender Issues and Advancement of Women;

(e) To take urgent measures to prevent the looting of cultural artifacts and ensure that artifacts that have been illegally removed are returned to Afghanistan;

9. Requests:

(a) The Afghan parties to continue to extend their full cooperation to the Special Rapporteur and to facilitate his access to all sectors of society and to all parts of the country;

(b) The Secretary-General to give all necessary assistance to the Special Rapporteur;

(c) The United Nations High Commissioner for Human Rights to ensure a human rights presence in the context of the United Nations activities in Afghanistan in order to provide advice and training in the field of human rights to all the Afghan parties, as well as to the intergovernmental and non-governmental organizations active in the field;

10. Decides:

(a) To extend the mandate of the Special Rapporteur for one year, and requests the Special Rapporteur to report on the situation of human rights in Afghanistan to the Commission at its fifty-fifth session and to the General Assembly at its fifty-third session;

(b) To continue its consideration of the situation of human rights in Afghanistan, as a matter of high priority, under the same agenda item at its fifty-fifth session.

57th meeting
21 April 1998
[Adopted without a vote. See chap. X.]

1998/71. Situation of human rights in Equatorial Guinea and assistance in the field of human rights

The Commission on Human Rights,

Recalling its resolution 1997/67 of 16 April 1997,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights,

Reaffirming that all States have the obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations they have undertaken under the various international instruments in this field,

Considering that, since the adoption by the Economic and Social Council of its decision 1993/277 of 28 July 1993 and the appointment of Mr. Alejandro Artucio as Special Rapporteur of the Commission on Human Rights, the Government of Equatorial Guinea has benefited from the advisory services of the Office of the High Commissioner for Human Rights, and that the Special Rapporteur has again observed progress in the field of human rights and fundamental freedoms in his reports (E/CN.4/1996/67 and Add.1, E/CN.4/1997/54 and Add.1 and E/CN.4/1998/73 and Add.1),

Taking note of the observation of the Special Rapporteur contained in his report that Equatorial Guinea is party to the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocols thereto, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, and his observations that there exists political will on the part of the authorities and that the efforts made in this regard have led to progress in the situation of human rights and fundamental freedoms,

Considering that the Government of Equatorial Guinea has taken steps to promote and protect human rights and fundamental freedoms, and that such action constitutes a priority in its programme of good governance,

Noting with concern the continuing existence of deficiencies and conditions that lead to violations and abuses of human rights, including cases of prolonged incommunicado detentions,

Noting with satisfaction that in February 1997 the Government of Equatorial Guinea and the opposition political parties resumed the political dialogue revising the National Pact signed in 1993, and that the results of these negotiations were to the satisfaction of all parties,

Noting that legislative elections are to be held in 1998,

1. Expresses its thanks to the Special Rapporteur for his report (E/CN.4/1998/73 and Add.1) and welcomes the report and the atmosphere of understanding, assistance and cordiality which the authorities of Equatorial Guinea provided him during his mission;

2. Expresses its appreciation of the efforts of the Government of Equatorial Guinea in welcoming the advisory services and technical assistance of the Office of the High Commissioner for Human Rights, which has led to progress in the field of human rights and fundamental freedoms in Equatorial Guinea;

3. Expresses its satisfaction for the efforts of the Government and the political parties of Equatorial Guinea in continuing the political dialogue and the revision of the National Pact, as well as for the effective realization and observation of the agreements relating to the National Pact, and encourages both the Government and the opposition to proceed to their prompt implementation;

4. Welcomes the first National Economic Conference held in Bata from 8 to 13 September 1997 at the initiative of the Government of Equatorial Guinea with the participation of all the political forces and the national and international economic actors, and takes note of the positive results of the Conference, which adopted a better and more transparent administrative and economic programme for national development;

5. Encourages the Government of Equatorial Guinea to pursue the efforts which it has already undertaken to effectively integrate women into the process of the socio-economic, cultural and political development of the country;

6. Also encourages the Government of Equatorial Guinea to promote the necessary conditions so that everyone should enjoy full economic, social and cultural rights;

7. Calls upon the Government of Equatorial Guinea to take the appropriate measures so as to avoid any form of discrimination against ethnic groups;

8. Invites Equatorial Guinea to become a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and to the International Convention on the Elimination of All Forms of Racial Discrimination;

9. Encourages the Government of Equatorial Guinea to continue its efforts to promote and protect human rights and fundamental freedoms as contained in its programme of priorities in the fields of democracy, human rights and governance presented in 1997, and in particular to:

(a) Pursue its efforts at improving both the functioning of the judiciary and the training of judges, prosecutors and lawyers in order to ensure the proper, guaranteed and effective administration of justice and strictly limit military courts to trying military offences committed by military personnel;

(b) Publish regularly laws, decrees and other governmental acts;

(c) Reiterate its instructions to the forces of law and order not to order or make arbitrary arrests and to respect the right of individuals to security, physical integrity and freedom;

(d) Take the necessary measures to avoid acts of torture and cruel, inhuman or degrading treatment or punishment;

(e) Continue its efforts to investigate and impose criminal and disciplinary penalties on those responsible for the violation of human rights;

10. Welcomes the improvements in the conditions of prisoners and detainees introduced by the competent authorities, and requests that these efforts continue in accordance with the recommendations of the Special Rapporteur;

11. Calls upon the Government of Equatorial Guinea to adopt the necessary measures to guarantee transparency and respect for the electoral process in the legislative elections to be held in 1998, with a view to facilitating the free participation of political parties, and calls upon all parties to continue to contribute to the progress of the democratic process;

12. Requests the High Commissioner for Human Rights to provide technical assistance in order to support the initiative and efforts of the Government of Equatorial Guinea to establish the Centre for the Promotion of

Human Rights and Democracy, which was recently legalized by the Government to strengthen the national capacities in this field, and calls upon the international community to make voluntary contributions to the relevant fund;

13. Also requests the High Commissioner for Human Rights and the Special Rapporteur to continue the technical assistance programme in partnership with the Government of Equatorial Guinea and in cooperation with the United Nations Development Programme and other United Nations agencies working in the field of human rights;

14. Decides to renew the mandate of the Special Rapporteur for one year;

15. Requests the Secretary-General to provide the Special Rapporteur with all necessary assistance for the discharge of his mandate;

16. Requests the Special Rapporteur to submit to the Commission at its fifty-fifth session a report stressing, in particular, recommendations on technical assistance needs of Equatorial Guinea in the fields of human rights and democracy;

17. Decides to consider the question at its fifty-fifth session;

18. Recommends the following draft decision to the Economic and Social Council for adoption:

"The Economic and Social Council, taking note of Commission on Human Rights resolution 1998/71 of 21 April 1998, endorses the Commission's decision to extend the mandate of the Special Rapporteur on the situation of human rights in Equatorial Guinea for one year and the Commission's request to the Special Rapporteur to submit to the Commission at its fifty-fifth session a report stressing, in particular, recommendations on technical assistance needs of Equatorial Guinea in the field of human rights and democracy. The Council requests the Secretary-General to provide the Special Rapporteur with all necessary assistance for the discharge of his mandate."

57th meeting
21 April 1998
[Adopted without a vote. See chap. X.]